

Remarks

The final Office action, dated March 7, 2007 states that claims 1-14 are presently pending. Upon reviewing the file, however, Applicant's representatives have determined that the original filing contained claims 1-12 and that a preliminary amendment was subsequently filed improperly replacing some of the claims with "New" claims, rather than "Presently Amending" the original claims. Hence, the record is not clear which claims are currently pending. Therefore, Applicant has canceled all of the pending claims, and added new claims 15-24.

The new claims are directed to substantially similar subject matter at the previously pending claims and, therefore, Applicant's response to the issues raised in the final Office action are presented below. Support for new claim 23 can be found in Example 10 on page 8 of the specification. No new matter is introduced by these amendments.

35 USC § 102

Claims 1-14 were rejected under 35 USC § 102(b) as being anticipated by Shillington et al. (US 3533810) as evidenced by the data about methyl anthranilate by www.thegoodcentcompany.com.

All of the presently pending claims relate to a pome fruit comprising a grape flavor (claim 15) or a method of making a pome fruit having a grape flavor (claim 20). The Shillington et al. reference discloses a method of decreasing the susceptibility of fruits and vegetable to deterioration from bacteria, fungi, and other microorganisms (column 1, line 34). Shillington et al. additionally discloses the use of methyl anthranilate in an amount of between 0.05-0.10% (column 3, line 66). Using the concentration of methyl anthranilate disclosed in Shillington et al. would not produce the claimed pome fruit comprising a grape flavor (claim 15) or a method of making a pome fruit having a grape flavor (claim 20). Accordingly, Applicant respectfully requests that this rejection be withdrawn.

35 USC § 103

Claims 1-14 were rejected under 35 USC § 103(a) as being unpatentable over Kare (US 2967128) in view of the combination of Weaver (US 3669684) and Michael (US 3427167).

While being substantially similar to the prior pending claims, new claims 1-14 are more specifically directed to post-harvest fruit having grape flavor. Additionally, new method claims 20-24 are additionally directed to a process comprising storing the fruit in cold storage.

The Kare reference is used by the Office to support the assertion that methyl anthranilate was known for imparting artificial food flavors used for cooking and baking and can be also used as a bird repellant. Applicant does not necessarily agree that the Kare reference supports this assertion, nevertheless, the presently pending claims are not directed to cooking or baking with methyl anthranilate and it is not necessarily true that an ingredient will provide the same flavor in a baked or cooked product as it would provide in an unbaked or uncooked product such as the claimed post-harvest pome fruits.

Weaver is used by the Office to support the assertion that enhancing the flavor of foods by subjecting the food to a desired flavor was known. The Office, however, notes that Weaver does not teach using methyl anthranilate as provided in the present claims and that Weaver does not teach dipping the fruit as provided in claims 20-24.

Finally, Michael is used by the Office to teach that methyl anthranilate has been used to provide grape flavor to jams and jellies. Michael, however, actually teaches that methyl anthranilate is not good for providing grape flavor (see, column 2, lines 58-67). In a comparison of products made with methyl anthranilate and products made with methyl-beta-hydroxybutyrate and ethyl-beta-hydroxybutyrate, Michael notes that the taste panel preferred the methyl-beta-hydroxybutyrate and ethyl-beta-hydroxybutyrate drinks 8:1 over the methyl anthranilate flavored drinks. Hence, Applicants assert that at best Michael teaches that methyl anthranilate is not a good compound for imparting grape flavor to drinks.

None of the above references teach a grape flavored post-harvest pome fruit comprising methyl anthranilate (independent claim 15) or a method of making such pome fruit (claim 20). As mentioned above, Kare at best teaches imparting flavor to cooked or baked products, not post-harvest pome fruits. Weaver does not make up for the deficiencies of Kare, because Weaver does not teach imparting grape flavored post-harvest pome fruits. Similarly, Michael does not make up for the deficiencies of Kare and Weaver, because Michael teaches at best that methyl anthranilate is NOT a good compound for imparting grape flavor to drinks and fails to teach a grape flavored post harvest pome fruit. Finally, none of the references teach or suggest a method of imparting grape flavoring to a post harvest pome

fruit that includes storing the fruit in cold storage as provided in claim 20. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Conclusion

Based on the forgoing amendments and remarks, Applicant believes the claims are in a condition for allowance and notification to this effect is requested. If the Examiner believes that there are any remaining issues outstanding, please contact the undersigned prior to the issuance of the next Office action. It is believed that a brief discussion of the merits of the present application may expedite prosecution.

Respectfully submitted,

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